

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BILLIE SAMMONS, JR.,

Plaintiff,

Case No. 12-11791

v.

HONORABLE AVERN COHN

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 12)
AND
GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT (Doc. 8)
AND
DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (Doc. 11)
AND
REMANDING MATTER FOR FURTHER ADMINISTRATIVE PROCEEDINGS

I.

This is a social security case. Plaintiff Billie Sammons, Jr. appeals from the final determination of the Commissioner of Social Security (Commissioner) that he is not disabled and therefore not entitled to disability insurance benefits. The matter was referred to a magistrate judge for all pretrial proceedings. Plaintiff and the Commissioner filed cross motions for summary judgment. Plaintiff requested that the Commissioner's decision be reversed and benefits awarded, or that the matter be remanded for further proceedings. The magistrate judge issued a report and recommendation (MJRR) recommending that plaintiff's motion be granted as to a remand and the Commissioner's motion be denied. Specifically, the magistrate judge recommends that the matter be remanded to the Administrative Law Judge (ALJ) "for

further consideration of the treating source rule. On remand, the ALJ should conduct a medical source analysis that is consistent with the Sixth Circuit's discussion in Gayheart¹ and outlined above." MJRR at p.12.

II.

Neither party has filed objections to the MJRR and the time for filing objections has passed. The failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir.1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985).

However, the Court has reviewed the MJRR and agrees with the magistrate judge. Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Plaintiff's motion for summary judgment is GRANTED IN PART AND DENIED IN PART. The Commissioner's motion for summary judgment is DENIED.

This matter is REMANDED for further administrative proceedings consistent with the MJRR.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: April 9, 2013

¹Gayheart v. Comm'r of Soc. Sec., 2013 WL 896255 (6th Cir. Mar. 12, 2013).

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I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, April 9, 2013, by electronic and/or ordinary mail.

S/Sakne Chami
Case Manager, (313) 234-5160